

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DEBBY BARRETT**, on February 3, 2003 at 8 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Debby Barrett, Chairman (R)
Rep. Dee Brown, Vice Chairman (R)
Rep. Larry Jent, Vice Chairman (D)
Rep. Norman Ballantyne (D)
Rep. Arlene Becker (D)
Rep. Sue Dickenson (D)
Rep. Carol Gibson (D)
Rep. Daniel S. Hurwitz (R)
Rep. Hal Jacobson (D)
Rep. Ralph Lenhart (D)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)
Rep. Don Roberts (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)
Rep. Pat Wagman (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Larry Lehman (R)
Rep. Jonathan Windy Boy (D)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Joan Reiman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 375, SB 7, SB 136
Executive Action: HR 3 DO PASS; HB 178 DO PASS AS
AMENDED; HB 203 DO PASS AS AMENDED;
HB 252 DO PASS; HB 253 DO PASS;
HB 353 DO PASS AS AMENDED; HB 375
TABLED; SB 7 BE CONCURRED IN AS
AMENDED; SB 136 BE CONCURRED IN

HEARING ON HB 375

Sponsor: REP. GARY MATTHEWS, HD 4, Miles City

Opening Statement by Sponsor:

REP. MATTHEWS said there were several bills in regarding education. He wanted members to table this bill and pass REP. FRITZ's HB 178.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 2.5}

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony:

David Senn, Executive Director, Teachers' Retirement System (TRS), provided exhibit 1 comparing the two bills.

EXHIBIT(sth23a01)

Questions from Committee Members and Responses: None

Hearing concluded. Sponsor did not wish to close.

HEARING ON SB 7

Sponsor: SEN. ED BUTCHER, SD 47

Opening Statement by Sponsor:

SEN. BUTCHER said this bill is in regard to who will pay the lobbyists' fee. Local officials were being treated differently than other elected officials since a 1983 bill. He had an amendment to add the president of Montana's universities to the exempted persons. He provided another amendment which will raise the spending limit from \$1,000 to \$2,150. It will eliminate considering travel and lodging expense as part of that limit. This will put out-of-town lobbyists on a par with Helena's, he said.

EXHIBIT(sth23a02)

{Tape: 1; Side: A; Approx. Time Counter: 2.5 - 6.7}

Proponents' Testimony:

John Mootry, Barrett Hospital Administrator, Dillon, stated that if the primary purpose is lobbying, he agrees they should register, but constituents should not have to register as lobbyists.

Harold Blattie, Assistant Director, MACO, noted this bill was requested by the Commissioner of Political Practices. Prior to 1983 local elected officials were exempt from lobbying requirements.

Mike Murray, Lewis & Clark County Commissioner, stated that pending the outcome of this bill, they are using tax money to register as a lobbyist to come here.

Chris Gallus, Montana Society of Association Executives (MSAE), offered an amendment. Current law has no diminimus exemption. It exempts only those acting on their own behalf. There is no intent to circumvent the lobbying regulations with his amendment, he said. He offered written testimony from Steve Yeakel.

EXHIBIT (sth23a03)

Alec Hanson, League of Cities and Towns, testified they are not sure the legislature ever wanted school board members to pay fees to talk to their own legislators.

Jani McCall, lobbyist for the City of Billings, spoke in support.

Jerry Driscoll, AFL/CIO, said there was a lawsuit over the 1983 bill and they put in exemptions for elected officials, but somehow it continued to read just "state" officials. The amendment would raise the limit; in 1983 \$1,000 was a lot.

Ed Tinsley, Lewis & Clark County Commissioner, supported the bill and amendment.

Aimee Grmoljez, Association of Montana Public Retired Employees, urged them to dispel confusion over who is a lobbyist. She supports the amendment.

Webb Brown, Montana Chamber of Commerce, spoke support of the bill and amendments.

Ann Hedges, MEIC, said the big money should get reported, and the rules are clearer than they used to bill. This bill would help even more.

Anita Varone, Lewis & Clark County Commissioner, said this is a cleanup bill.

Dale Abercrombie, Vice Chair, Montana Association of Executives, agreed with Hedges. The bill's "de minimus" makes it easier to talk to legislators.

Christie Blazer, Montana Beer & Wine Wholesalers Association, said she supports especially the amendment.

Mona Jamison, Gallatin County lobbyist, supports the bill. County Commissioners should not have to pay the fee, she said.

Don Allen, representing Granite, Powell and Deer Lodge Commissioners, supported the amendments.

Ronda Carpenter, representing Great Falls Chamber of Commerce and Montana County Treasurers Association, stated her support.

Elaine Mann, Broadwater County Commissioner, said small communities cannot afford to pay three fees. If this bill fails, she must pay the fee out-of-pocket just to be here.

Brad Griffin, Montana Retail & Restaurant Association and Flathead Business Association, testified his support.

Elaine Sliter, Montan Soft Drink Association, urged support of the bill and amendments.

Nancy Schlepp, Montana Farm Bureau, also supported the bill and amendments.

Stuart Doggett, Representing Montana Community Colleges and four Statewide Associations, asked them to consider adding community college presidents to the exempted officials.

Spook Stang, Executive Vice President, Montana Motor Carriers Association, supported the bill and amendments.

Al Smith, MT Trial Lawyers Association, said when MRL brings employees to testify, they should not have to pay.

Margaret Morgan, Representing four small Montana organizations, said the current law acts as a deterrent to citizens; they feel hesitancy. She urged pass with amendments.

Don Judge, Teamsters" Local 190, supports the bill and amendments.

{Tape: 1; Side: A; Approx. Time Counter: 6.7 - 41.2}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

Sponsor closed saying this will streamline government.

HEARING ON SB 136

Sponsor: SEN. ED BUTCHER, SD 47

Opening Statement by Sponsor:

SEN. BUTCHER said this simple bill will allow a public official, who is an officer in a professional organization, to lobby.

{Tape: 1; Side: A; Approx. Time Counter: 41.2 - 42.3}

Proponents' Testimony:

Harold Blattie, Assistant Director, MACO, supported this bill, the companion bill to SB 7.

Mike Murray, Lewis & Clark County Commissioner, stated support and urged them to move quickly.

Ronda Carpenter, representing Great Falls Chamber of Commerce and Montana County Treasurers Association, stated her support.

Anita Varone, Lewis & Clark County Commissioner, supported the bill.

Elaine Mann, Broadwater County Commissioner, supports the bill.

Ed Tinsley, Lewis & Clark County Commissioner, supported the bill.

Alec Hanson, League of Cities and Towns, testified in favor.

Mona Jamison, Gallatin County lobbyist, supports the bill.

{Tape: 1; Side: A; Approx. Time Counter: 42.3 - 48.5}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

The Sponsor urged them to move quickly. He asked who would carry it and REP. ALAN OLSON said he will do it, aided by REP. JACOBSON.

{Tape: 1; Side: A; Approx. Time Counter: 48.5 - 49.5}

EXECUTIVE ACTION ON HR 3

Motion: REP. ALAN OLSON moved HR 3 DO PASS.

Discussion:

REP. SMITH submitted testimony of REP. SMALL-EASTMAN.

EXHIBIT (sth23a04)

REP. BROWN stated the previous Commission had a majority of almost across-party-line votes. There was never discussion regarding parties or 5% criterion. With the present Commission going strictly party-line, this Minority Report suggested the Republicans used redistricting in 1990 for political gain. REP. YOUNKIN commented on the reason HR3 came about. The statute says the Commission shall submit their report; the legislature has 30 days to comment. The Select Joint Committee is the commentary. The statute intended this process; the Republicans are not making any statements by it, she said.

REP. BROWN said it was a sad day when Commissioner Joe Lamson commented that the Republicans should have gotten software and done the same thing the Democrats did. With the tools they have today, the criterion should be 0% deviation, she said. REP. WINDY BOY cited two specific cases where federal judges said there were violations in voting rights. REP. BERNIE OLSON said in the Flathead, especially his district, in 10 years they will be

way beyond a 5% growth. **REP. ALAN OLSON** submitted testimony in response to Plan 300 from Chippewa-Cree officials.

EXHIBIT (sth23a05)

{Tape: 1; Side: A; Approx. Time Counter: 50.9 - 66}

REP. LEHMAN said he was chagrined that someone said his districts belonged to the people; he believes his district is his district. **REP. WINDY BOY** said the group whose letter **REP. A. OLSON** read, is trying to take the rest of the tribe to court. **REP. HURWITZ** said Plan 300 did not serve Broadwater County.

REP. BECKER said she will be embarrassed when this passes; the wording is racist and nasty. **REP. DICKENSON** said the language is inappropriate and stirs animosity; it smacks of racist overtones. **REP. A. OLSON** said a lot of the Commission's discussions were behind closed doors. Their criteria were blatantly unethical, unfair and partisan. He does not think Mr. Lamson went county to county like the legislative staffer did; that flies in the face of the rules. "The Democrats on the commission started the partisanship, not the Republicans," he said. "We need to make a strong statement because this will happen again," he continued. Billings was spread out because "we need swing districts" he asserted. "The districts in central Montana which were ripped apart by Plan 300 -- are those not [also] communities of interest?" he asked.

REP. WINDY BOY said many non-Natives voted for him. He said all the members have to face everyone back home when session ends. They are all put in a tough position and he commended them. **REP. SMITH** told **REP. BROWN** that Plan 300 was not partisan and the Republicans could have kept track of districting decisions. He called this Resolution "mean." "All reservations do not think the same," he said. This HR puts the Secretary of State between a rock and a hard place. Then Secretary of State, Cooney accepted the last Plan and it had a gain of 14 Republican Districts, he further asserted. Question was called.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 13.8}

Vote: On a roll call vote, **HR 3 DO PASS** carried 10-9.

Voting no were REPS. JENT, BALLANTYNE, BECKER, DICKENSON, GIBSON, JACOBSON, LENHART, SMITH and WINDY BOY.

EXECUTIVE ACTION ON SB 7

CHAIRMAN BARRETT asked if they had the needed amendments.

Motion: **REP. ALAN OLSON** moved **SB 7 BE CONCURRED IN.**

Discussion:

REP. JENT asked about Line 19, i.e., if the bill did not encompass community college officials; they can simply add three words. **Ms. Heffelfinger** said they could do a conceptual amendment.

Motion: **REP. JENT** moved **SB 7 BE AMENDED.**

Discussion

REP. A. OLSON said this will benefit the system, and there were no opponents. **REP. WAGMAN** questioned how the fee works. Witness **Dulcy Hubbard, Program Supervisor, Commissioner of Political Practices Office**, was called to testify. She said this year she has suspended the fee for local elected officials. If this bill passes and they paid the fee, she will issue refunds. Question was called.

Vote: On a voice vote, **motion TO AMEND SB 7 carried 19-0, REP. WINDY BOY voting by proxy.**

Action was suspended on SB 7 at this point.

EXECUTIVE ACTION ON SB 136

SB 136 had been concurred in unanimously on February 3, 2003

Motion: **REP. JACOBSON** moved **SB 136 BE CONCURRED IN.**

Vote: On a voice vote, **motion carried 19-0, REP. WINDY BOY voting by proxy.**

EXECUTIVE ACTION ON HB 375

Motion: **REP. YOUNKIN** moved **HB 375 DO PASS.**

Motion/Vote: **REP. YOUNKIN** moved **HB 375 BE TABLED.** On a voice vote, **motion carried 19-0, REP. WINDY BOY voting by proxy.**

EXECUTIVE ACTION ON HB 190

HB 190 & 201 are still waiting for amendments.

EXECUTIVE ACTION ON HB 178

Discussion:

Sheri Heffelfinger said sponsor REP. FRITZ worked with her after the hearing on amendments. The "Grey Bill" shows how it will read with the amendments, but it's for illustration only, and they cannot actually amend the Grey Bill.

EXHIBIT (sth23a06)

EXHIBIT (sth23a07)

Motion: REP. JENT moved HB 178 DO PASS.

Motion: REP. A. OLSON moved AMENDMENTS TO HB 178.

Discussion:

REP. BROWN asked why the sunset date was moved from 2005 to 2007.

David Senn, Executive Director, Teachers' Retirement System

(TRS), was called to testify. He said it was to get a larger statistical sample to see if this will have an impact on TRS.

REP. BROWN asked how it will impact TRS. **Mr. Senn** said it is hard to say. He does not know how many teachers will come back.

REP. BROWN asked where the fiscal note was. **Mr. Senn** said one was done, but there will be no cost this biennium, anyway.

CHAIRMAN BARRETT wanted to see how it would impact. REP. FRITZ was called to testify. **REP. FRITZ** said this would have no fiscal impact on the general fund or TRS. **REP. HURWITZ** said this will bring our retirees up to the same level as out-of-state retirees.

REP. BERNIE OLSON said there was an IRS reason for not having them on a par; the employee cannot contribute the second time.

REP. WAGMAN asked about the fiscal note. Sponsor deferred to **Mr. Senn** who addressed the long-range impact. He does not anticipate actuarial impact over the three years; continuing the employer contribution protects the system, but he couldn't predict after that.

REP. A. OLSON wanted to change the amendment; they can only use retirees if no one is qualified for the job. He wanted the qualifications to be defined by the Board of Public Education, not the schools. The sponsor considered that a friendly

amendment. **REP. LEHMAN** was concerned about eliminating local control. **Mr. Senn** said the amendment means no one accepted or no one who qualified applied. He deferred back to sponsor. She said they would try to get new teachers in there first.

REP. LEHMAN checked with Darrel Rud and there are over 400 retired teachers/administrations working in Montana schools.

REP. JACOBSON said waivers could be established if there were no qualified applicants. **REP. B. OLSON** asked the sponsor if the subject must be a critical area. She said they needed to be in a critical area like counselors, school psychologists, physics teachers. Advanced placement classes can be any teacher with that certification. Usually advanced placement is only one of five or seven classes, and they are highly competitive, so probably a qualified teacher will be found.

REP. A OLSON said they need to amend the minimum qualifications.

Ms. Heffelfinger said she would do a conceptual amendment. **The sponsor** said then OPI can retain control.

(REP. WINDY BOY returned at 10:45)

Substitute motion/Vote: **REP. ALAN OLSON** moved **CONCEPTUAL AMENDMENT** to HB 178. On a voice vote, it carried 16-3. Voting no were REPS. JENT, LEHMAN & WINDY BOY.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 10}

Discussion:

REP. BROWN said they needed to up service for retirement from 25 to 30 years. **REP. GIBSON** said the bill was designed to alleviate filling vacancies in schools, especially smaller town schools; she supported the bill. **REP. LEHMAN** supported it also but said anybody could get around [the intent of] the bill if they wanted to.

REP. HURWITZ referred to **REP. B. OLSON's** comment about retiring at 30 years. Montana teachers would have to give up their retirement benefit if they return to teaching, but that is not true for out-of-staters. **REP. HURWITZ** asked sponsor if we are treating our teachers fairly. She stated the issue is need, and they needed to protect the TRS. Question was called.

Motion/Vote: **REP. A. OLSON** moved **HB 178 DO PASS AS AMENDED**. On a voice vote, motion carried 19-0.

EXECUTIVE ACTION ON HB 203

Motion: REP. ALAN OLSON moved HB 203 DO PASS.

Motion: REP. ALAN OLSON moved HB 203 BE AMENDED.

EXHIBIT (sth23a08)

Discussion:

Ms. Doggett was called to clarify the sections of the amendment.

Vote: On a voice vote, motion carried 19-0.

Motion/Vote: REP. ALAN OLSON moved HB 203 DO PASS AS AMENDED.
On a voice vote, motion carried 19-0, with REPS. LEHMAN & WINDY
BOY voting by proxy.

EXECUTIVE ACTION ON HB 252

Motion/Vote: REP. YOUNKIN moved HB 252 DO PASS. On a voice
vote, motion carried 19-0, with REP. WINDY BOY voting by proxy.

EXECUTIVE ACTION ON HB 253

Motion/Vote: REP. YOUNKIN moved HB 253 DO PASS. On a voice vote,
motion carried 19-0, with REP. WINDY BOY voting by proxy.

EXECUTIVE ACTION ON HB 353

Motion: REP. JACOBSON moved HB 353 DO PASS.

Motion: CHAIRMAN BARRETT moved HB 353 BE AMENDED (TECHNICAL
AMENDMENTS). On a voice vote, motion carried 19-0, with REP.
WINDY BOY voting by proxy.

EXHIBIT (sth23a09)

Motion/Vote: REP. A. OLSON moved HB 353 DO PASS AS AMENDED. On
a voice vote, motion carried 19-0, with REP. WINDY BOY voting by
proxy.

ADJOURNMENT

Adjournment: 11:15 A.M.

REP. DEBBY BARRETT, Chairman

JOAN REIMAN, Secretary

DB/JR

EXHIBIT (sth23aad)